HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD
(Special Original Jurisdiction)

WEDNESDAY, THE FIFTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY THREE

PRESENT

THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT PETITION NO: 25219 OF 2004

Between:

1. Akkem yadagiri **(Died) Per LRs. Petitioners 9 to 15**
2. Akkem Sattaiah,, S/o. a. Komaraiah, Private Employee, R/o. Mailardevpalli Village, Kesavagiri Post, Hyderabad
3. Akkem Chandram,, S/o. Late A. Komaraiah, Business, Mailardevpalli Village, Kesavagiri Post, Hyderabad.
4. Akkem Krishna,, S/o. Late a. Komaraiah, Business, Mailardevpalli Village, Desavagiri Post, Hyderabad.
5. Akkem Mallikarjun,, S/o. Late a. Komaraiah, Business, Mailardevpalli Village, Desavagiri Post, Hyderabad.
6. Akkem Jaya Shankar,, S/o. Late a. Komaraiah, Self Employment, Mailardevpalli Village, Kesavagiri Post, Hyderabad.
7. Akkem Manjula,, W/o. Akkem Srisailam, Agriculture, Mailardevpalli Village, Kesavagiri Post, Hyderabad.
8. Akkem Shanthamma,, W/o. Late Komaraiah, Business, Mailardevpalli Village, Kesavagiri Post, Hyderabad.
9. Akkem Anasuya W/o. Late Akkem Yadagiri, R/o.H.No.8-1-26, Milardevpally, Kesavagiri Post, Rajendranagar, Ranga Reddy District.
10. Akkem Shyamala W/o. Late Akkem Ashok Kumar, R/o.H.No.8-1-26, Milardevpally, Kesavagiri Post, Rajendranagar, Ranga Reddy District.
11. Akkem Vamshi Yadav S/o. Late Akkem Ashok Kumar R/o.H.No.8-1-26, Milardevpally, Kesavagiri Post, Rajendranagar, Ranga Reddy District.
12. Akkem Varun Yadav S/o. Late Akkem Ashok Kumar, R/o.H.No.8-1-26, Milardevpally, Kesavagiri Post, Rajendranagar, Ranga Reddy District.
13. Akkem Ramesh Kumar S/o. Late Akkem Ashok Kumar, R/o.H.No 8-1-26, Milardevpally, Kesavagiri Post, Rajendranagar, Ranga Reddy District.
14. K. Sri Laxmi @ Laxmi Bai W/o. K. Ravi Raj, R/o.H.No.16-11-266, Moosarambagh, Hyderabad.
15. L. Saraswathi W/o. Raju Yadav D/o. late Akkem yadagiri, R/o.H.No.3-5-118/PGRE/102, Krishna Nagar, near Community Hall, HYderguda, Rajendranagar, Ranga Reddy District.

(Petitioners 9 to 15 are brought on record as LRs of the deceased Petitioner No. 1 as per Court Order dated 15.03.2023 in I.A.No.3 of 2023)

...PETITIONERS

AND

1. The Commissioner of Land Reforms & Urban Land -, Ceiling, A.P Hyderabad.
2. The Special Officer & Competent Authority, ', Urban Land Ceiling, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed therewith, the High Court may be pleased to Issue a Writ, Order or direction more particularly one in the nature of Writ of Certiorari calling for records pertaining to CC No. D1/2780/76 and quash the ordes of the 2nd respondent dt. 13.5.94 and its consequential orders as being violative of principles of natural justice, equity and fair play in the interest of justice and contrary to the mandatory provisions of Sec. 8 (3) and (4) and 9 of the Urban Land (Ceiling & Regulation) Act, 1976

IA NO: 2 OF 2022

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased To set aside the default order dated 06-04-2022 in WP.No.25219/2004 by restoring the above writ petition on file in the interest of justice and pass

I.A. NO: 1 OF 2004(WPMP. NO: 32940 OF 2004)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased Grant stay of dispossession of the petitioners land in an extent of Ac 7-20 gunts in Sy.Nos. 58 to 62 of Lakshmiguda Village, Rajendranagar Mandal, R.R.District, pursuant to the notice of the 2nd rspondent dt. 29.9.2004 in Lr.No.D1/2780/76 pending the above W.P. before this Hon'ble Court.

I.A. NO: 1 OF 2010(WPMP. NO: 6143 OF 2010)

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to allow the writ petition in pursuance of the repealing of Urban Land (Ceiling and Regulation) Act, 1976

Counsel for the Petitioners: SRI P. RAJASEKHAR

Counsel for Respondents: GP FOR LAND ACQUISITION

The Court made the following: ORDER

THE HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

WRIT PETITION No.25219 of 2004

ORDER:

This writ petition is filed challenging the proceedings bearing CC.No.D1/2780/76 dated 13.05.1994 and consequential orders issued by the respondent No.4 as being violative of principles of natural justice and mandatory provisions under Sections 8(3), 8(4) and Section 9 of the Urban Land (Ceiling and Regulation) Act, 1976 (for short 'the ULC Act').

2. The petitioners claim to be the owners of land admeasuring Ac.7.20 guntas in Sy.Nos.58 to 62 situated in Laxmiguda Village, Rajendrangar Mandal, Ranga Reddy District. The father of the petitioners, Akkem Komaraiah, filed declaration under Section 6(1) of the Act in respect of the above land and also house bearing No.1-11 constructed in an extent of 850 sq. meters situated at Mallardevpalli Village. The petitioners sought exemption under Section 20 of the ULC Act, as the land is an agricultural land and used for agricultural purpose only. After filing declaration, the father of the petitioners died on 04.06.1983. The residential address of their father was mentioned in Form-I. It is contended that after death of their father, no notice was issued under Sections 8(3), 8(4), 9, 10(1) and 10(3) of the ULC Act. In the last week of November 2004, the respondent No.2 got served a notice purported

to have been issued under Section 10(5) of the ULC Act directing the petitioners to surrender the land. On enquiry, the petitioners came to know that entire proceedings were issued behind their back without any notice and opportunity.

3. It is noticed from the counter of the respondent No.2 that there is also a reference to appeal No.Hyd/115/96 said to have been filed by the father of the petitioners challenging the order of the respondent No.2 dated 13.05.1994. According to the respondents the said appeal was dismissed by order dated 05.05.1995. The petitioners contended that they have not filed any appeal and they have not engaged any lawyer to file the said appeal.

4. However, it is not necessary for this Court to go into all those issues, in view of the submission of the learned counsel for the petitioners that status quo order was passed by this Court on 27.01.2005, possession of the subject land admittedly was not taken by the Government and by virtue of Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999, the lands of the petitioners are saved from the provisions of the ULC Act and the proceedings are abated.

5. Though a detailed counter has been filed by the respondent No.2, learned Government Pleader for Land Acquisition has fairly

conceded that the Section 10(5) notice was issued on 29.09.2004 and served on the legal heirs of the declarant on 10.10.2004 to deliver possession of the surplus land within 30 days; the legal heirs of the declarant failed to surrender possession of the land. Notice under Section 10(6) of the Act was issued on 08.12.2004 authorizing the enquiry officer to take over possession of the subject land; in the light of the status quo order dated 27.01.2005 passed by this Court, the possession of the land was not handed over to the Mandal Revenue Officer, as stated in para 3 of the counter affidavit.

6. Thus, it is not in dispute that the possession of subject lands was not taken from the petitioner and they are saved under Section 4 of the Urban Land (Ceiling and Regulation) Repeal Act, 1999, which came into force in the State of Andhra Pradesh with effect from 27.03.2008 and the ULC proceedings got abated.

In view of the above, the writ petition is allowed, as the impugned proceedings are abated. The miscellaneous petitions pending, if any, shall stand closed. There shall be no order as to costs.

That the Rule Nisi has been made absolute as above.

Witness THE HON'BLE THE CHIEF JUSTICE UJJAL BHUYAN, on this Wednesday, the Fifteenth day of March, Two Thousand and Twenty Three.

SD/-K.SREERAMA MURTY
ASSISTANT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. The Commissioner of Land Reforms & Urban Land -, Ceiling, A.P. Hyderabad.

2. The Special Officer & Competent Authority, ', Urban Land Ceiling, Hyderabad.
3. One CC to Sri P Rajasekhar Advocate [OPUC]
4. Two CCs to GP For Land Acquisition, High Court for the State of Telangana. [OUT]
5. Two CD Copies

MBC
BS

(2 DRAFTS)

HIGH COURT

DATED: 15/03/2023

ORDER

WP.No.25219 of 2004

ALLOWING THE WRIT PETITION

WITHOUT COSTS

23/5/2023